

**These charges are only allegations which
may be contested by the licensee in an
Administrative hearing.**

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
THOR VAN DIVER, M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: THOR VAN DIVER, M.D.
Gulf Coast Medical Center
13681 Doctors Way
Fort Myers, FL 33912



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on August 15, 2018, at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719,¹ and at such other adjourned dates, times and places as the committee may direct.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State

¹ For GPS purposes, enter "Menands", not "Albany".

Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. You may also file a written brief and affidavits with the Committee. All such documents shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET OUT IN NEW
YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED
TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN
THIS MATTER.

DATED: Albany, New York
June 21, 2018



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Pooja A. Rawal
Senior Attorney
Bureau of Professional Medical Conduct
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Empire State Plaza
Albany, NY 12237
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Cc: Amy Kulb, Esq.
Jacobson Goldberg & Kulb, LLP
585 Stewart Avenue, Suite 500
Garden City, New York 11530

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
THOR VAN DIVER, M.D.

STATEMENT
OF
CHARGES

THOR VAN DIVER, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 8, 1991, by the issuance of license number 187270 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 19, 2006, in the Circuit Court of Collier County, Florida ("Florida Court"), the Respondent was found guilty, upon a guilty plea for Battery [Section 784.03-1(a)(1), Florida Statutes] and Tampering with or Harassing a Witness, Victim, or Informant [Section 914.22-1(b), Florida Statutes], both misdemeanors. Both pleas were based off the Respondent being arrested for domestic violence resulting from a fight between the Respondent and his then spouse. The Respondent was sentenced to twelve months' probation for each charge, to be terminated after 6 months upon successful completion of the following conditions: The Respondent was ordered to complete a parenting class, participate in a Batterers' Intervention Program, and ordered to have no contact with the victim. The Respondent was required to pay

prosecution costs, court costs, and investigation costs, totaling \$800.50. On or about September 8, 2006, the Respondent's probation was successfully terminated.

On or about the same day, September 8, 2006, the Respondent was found guilty, upon a guilty plea to a Violation of an Injunction for Protection against Domestic Violence [Section 741.31-4(a), Florida Statutes], a misdemeanor. The Respondent was sentenced to six months' probation, required to undergo a psychological evaluation, and have no contact with the victim. The Respondent was ordered to pay prosecution costs, court costs, and investigation costs, totaling \$225.00.

B. The conduct resulting in the Florida Court convictions against the Respondent would constitute a crime under the laws of New York State pursuant to the following section of New York State Law:

1. New York Penal Law § 215.15 (Intimidating a victim or witness in the third degree) and/or;
2. New York Penal Law § 120.00 (Assault in the third degree) and/or;
3. New York Family Court Act § 842(a) (Violation of an order of protection).

SPECIFICATION OF CHARGES

CRIMINAL CONVICTION (Other Jurisdiction)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would

have constituted a crime under New York state law [namely N.Y. Pen. Law §§ 215.15 and 120.00; N.Y. Family Court Act § 842(a)] as alleged in the facts of the following:

1. The facts in Paragraphs A, B, and/or B1 and/or B2 and/or B3.

DATE: June 26, 2018

Albany, New York



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct